

## **REMARKS**

Applicants thank the Examiner for indicating that claims 24-37 and 46-56 are allowed. Claims 1-23, 38-45, 57-58, and 60-85 have been canceled without prejudice. Claims 86-88 have been added. Support for new claims 86-88 can be found in the instant disclosure, for example, at page 100 and 201 and in priority application Serial No. 08/845,496 (April 4, 1997) at pages 8 and 14. After entry of this amendment, claims 24-37, 46-56, 59 and 86-88 will be pending.

### **I. Office Action Summary**

Applicants note that the Office Action Summary indicates that the current Office Action is both a Final Office Action (box 2a is checked) and a Non-Final Office Action (box 2b is also checked). Applicants respectfully submit that the current Office Action is properly a Non-Final Office Action.

The M.P.E.P. §706.07(a) indicates that a Final Rejection is proper "except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement." Because the new rejection under 35 U.S.C. § 102(e) over Holtzman et al (US 6,416,974) was "neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement," the current Office Action should be a Non-Final Office Action. Applicants respectfully request that the Non-Finality of the current Office Action be confirmed.

### **II. Priority**

The Examiner has indicated that claims drawn to SEQ ID NO:1 and 2 will be given priority to U.S. Provisional Application Serial No. 60/098,538 (Aug. 28, 1998) and that claims drawn to SEQ ID NO: 125 and 126 will be given priority to U.S. Patent Application Serial No. 08/845,496 (Feb. 24, 1997).

### **III. Rejections under 35 U.S.C. §102(e)**

Claims 57, 58, 60-68 and 77-85 were rejected under 35 U.S.C. §102(e) as anticipated by Holtzman et al. (US 6,416,974). Claims 57, 58, 60-68 and 77-85 have

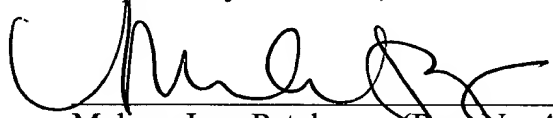
been canceled, rendering this rejection moot. Applicants therefore request withdrawal of this rejection.

**CONCLUSION**

Applicants respectfully request that the remarks of the present response be entered and made of record in the present application. If any additional information is needed, Applicants respectfully request that the Examiner contact the undersigned to facilitate prosecution. The application is believed to be in condition for allowance and early notice to that effect is earnestly solicited. If a fee is required in connection with this paper, please charge Deposit Account No. 08-3425 for the appropriate amount.

Date: October 1, 2004

Respectfully submitted,

  
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Melissa Jean Pytel (Reg. No. 41,512)

**Human Genome Sciences, Inc.**  
14200 Shady Grove Road  
Rockville, MD 20850  
Telephone: (301) 610-5764